

TOWN OF NOLENSVILLE
Post Office Box 547
Nolensville, Tennessee 37135

RESOLUTION #04-03

A RESOLUTION TO FORMALLY ENTER INTO AN AGREEMENT WITH
FISCHBACH TRANSPORTATION GROUP

WHEREAS, the Town of Nolensville Planning Commission and Board of Mayor and Aldermen are reviewing a PUD zoning; and,

WHEREAS, the Town of Nolensville has received traffic studies for the area that will be effected by the possible development; and

WHEREAS, it is the Board of Mayor and Aldermen's desire to perform an individual study;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF NOLENSVILLE, TENNESSEE, AS FOLLOWS:

Section 1. The Mayor is authorized to enter into an agreement with Fischbach Transportation Group, to perform a traffic study.

Section 2. This said agreement is attached hereto and is made a part of this resolution.

RESOLVED this 1st day of April 2004.

Charles F. Knapper, Mayor

Cindy Lancaster, Town Recorder

Passed: _____

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT is entered into between the Town of Nolensville, TN (Client) and Fischbach Transportation Group, Inc. (Consultant), based upon services relative to the Client's requirement for certain professional services related to reviewing traffic-related analyses relative to the Bent Creek Property development proposed for construction on the north side of Clovercroft Road and west of Nolensville Road in Nolensville, TN.

1. SCOPE OF SERVICES AND SCHEDULE

Consultant shall provide the Services described in Attachment A, according to the Schedule described in Attachment B.

2. COMPENSATION

Client shall pay Consultant in accordance with Attachment C. Invoices shall be due and payable upon receipt.

3. INDEMNIFICATION

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any damage, liability, or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the Consultant's negligent acts, errors, or omissions in the performance of professional services under this Agreement and those of his or her subconsultants or anyone for whom the Consultant is legally liable. The Consultant is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any damage, liability, or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the Client's negligent acts, errors, or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the Client is legally liable, and arising from the project that is the subject of this Agreement.

4. DISPUTE RESOLUTION

In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Client and the Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers

or fabricators so retained, thereby providing for mediation as the primary method of dispute resolution between the parties to those agreements.

5. INSURANCE

To the fullest extent provided by law and to the limits and provisions of the Consultant's insurance coverage and policies, the Consultant shall indemnify and hold harmless the Client against liabilities, injuries, and damages, including legal expenses and fees that sustain solely as a result of the Consultant's negligent performance of the work. *The Consultant will provide the Client with a certificate of insurance for workers' compensation. The Consultant will provide the Client with a certificate of insurance for general liability/professional liability for the limits of \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate. Insurance coverage shall remain in force during the duration of the services provided by the Consultant.*

6. TERMINATION OF SERVICES

Either the Client or the Consultant may terminate this Agreement at any time with or without cause upon giving the other party seven (7) calendar day's prior written notice. The Client shall within thirty (30) calendar days of termination pay the Consultant for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this contract.

7. DEFAULT

Consultant shall not be considered in default or breach of this Agreement for delays in performance caused by circumstances beyond its reasonable control.

8. OWNERSHIP OF DOCUMENTS

The Client acknowledges the Consultant's documents as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the Client upon completion of the work and payment in full of all monies due to the Consultant. The Client shall not reuse or make any modification to the *original* plans and specifications without the prior written authorization of the Consultant. *The Client may reproduce the originals. For identification purposes, reproductions will be duly marked as such.* The Client agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising or allegedly arising out of any unauthorized reuse or modification of the *original* construction documents by the Client or any person or entity that acquires or obtains the *original* plans and specifications from or through the Client without the written authorization of the Consultant.

IN WITNESS WHEREOF, Client and Consultant have executed this Agreement,
effective as of _____

Town of Nolensville
7240 Nolensville Road
Suite 102
Nolensville, TN 37135
(Client)

Fischbach Transportation Group, Inc.
3326 Aspen Grove Drive
Suite 130
Franklin, TN 37067
(Consultant)

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Scope of Services
Bent Creek at Dodson Property Development
Nolensville, Tennessee

Fischbach Transportation Group, Inc. will review the traffic engineering and planning analyses that have been prepared recently by RPM Transportation Consultants, LLC on behalf of the Bent Creek development that is proposed for construction on Clovercroft Road in Nolensville, TN. In particular, Fischbach Transportation Group, Inc. will evaluate the recommendations presented by RPM Transportation Consultants, LLC in relation to the background traffic volumes that will be generated by recently approved or soon-to-be approved developments within the study area. Also, Fischbach Transportation Group, Inc. will identify additional recommended roadway configurations for the existing and proposed infrastructure within the study area.

Schedule of Services
Bent Creek at Dodson Property Development
Nolensville, Tennessee

Upon receiving a notice to proceed, Fischbach Transportation Group, Inc. will complete the review of RPM Transportation Consultants, LLC engineering and planning analyses within ten (10) days of receiving a notice-to-proceed.

Compensation
Bent Creek at Dodson Property Development
Nolensville, Tennessee

The fees for completing the proposed scope of services will be billed on an hourly basis at a rate of \$100.00 per hour, not to exceed **\$5,000.00**. Significant changes to the proposed scope of services and attendance at meetings are examples of events that would be considered additional services. Compensation for additional services should be negotiated and approved prior to performance of any such services.